

Rule 129. Brief of an Amicus Curiae**Rule 129.01 Request for Leave to Participate**

Upon prior notice to the parties, a brief of an amicus curiae may be filed with leave of the appellate court. The applicant shall serve and file a request for leave no later than 15 days after the filing of the notice of appeal, the petition which initiates the appeal, the appellate petition for declaratory judgment, or the appellate court order granting review. A request for leave shall identify whether the applicant's interest is public or private in nature, identify the party supported or indicate whether the amicus brief will suggest affirmance or reversal, and shall state the reason why a brief of an amicus curiae is desirable.

(Amended effective January 1, 1999; amended effective March 1, 2001.)

Rule 129.02 Time for Filing and Service

Copies of an amicus curiae brief shall be served on all parties and filed with the clerk of the appellate courts with proof of service no later than seven days after the time allowed for filing the brief of the party supported, or if in support of neither party, no later than the time allowed for filing the petitioner's or appellant's brief.

(Amended effective January 1, 1999; amended effective March 1, 2001.)

Rule 129.03 Certification in Brief

A brief filed under this rule shall indicate whether counsel for a party authored the brief in whole or in part and shall identify every person or entity, other than the *amicus curiae*, its members, or its counsel, who made a monetary contribution to the preparation or submission of the brief. The disclosure shall be made in the first footnote on the first page of text.

(Added effective March 1, 2001.)

Rule 129.04 Oral Argument

An amicus curiae shall not participate in oral argument except with leave of the appellate court.

(Amended effective January 1, 1999; amended effective March 1, 2001.)

Advisory Committee Comment - 2000 Amendments

*Rule 129.01 is amended to delete a provision that provided for an automatic stay of a briefing period until a request for leave to participate as amicus curiae was decided. Under the revised rule, the parties proceed with the normal briefing schedule without regard to whether amici will participate. A party or a potential amicus curiae who believes a delay in the briefing schedule is necessary may move for a stay. Rule 129.03 is a new provision requiring disclosure, in the brief, of whether any counsel for a party authored the brief in whole or in part and shall identify persons other than the amicus curiae who provided monetary contribution to its preparation or submission. This rule is patterned on Rule 37.6 of the Rules of the Supreme Court of the United States. This rule is intended to encourage participation of independent amici, and to prevent the courts from being misled about the independence of amici or being exposed to "a mirage of amicus support that really emanates from the petitioner's word processor." Stephen M. Shapiro, *Certiorari Practice: The Supreme Court's Shrinking Docket*, reprinted at 24 LITIGATION, Spring 1998, at 25, 74. The rule is not intended to discourage the normal cooperation between the parties to an action and the amici, including the providing of access to the record, the exchange of briefs in advance of submission, and other such activities that do not result in someone other than the amicus preparing the amicus brief.*

The numbering of the rule is changed to conform it to the style predominantly used in the other rules. This change is not intended to modify the meaning or interpretation of the rule.